

IDAPA 37.03.09
Negotiated Rule Making
December 1, 2006

Negotiated Rule Making continued on Friday, December 1, 2006 at 8 AM MST. This meeting was conducted using the University of Idaho's teleconferencing system, and stakeholders participated from locations in Twin Falls, Coeur d'Alene, Idaho Falls, and Boise. The complete meeting was recorded and is summarized below.

1. The Facilitator discussed the general schedule. Two additional meetings for negotiations are planned for January 4 and January 26, 2007.
2. Mr. Brett McCarty stated that the Idaho Ground Water Association (IGWA) did not have a good opportunity to review the December 1 draft of the proposed revisions and had not gathered input from its membership.
3. The stakeholders discussed at some length the set back and siting requirements at lines 450 through 454.
 - a. The term "potentially hazardous underground tanks" is ambiguous.
 - b. The stakeholders discussed the proposed 50-ft setback distance from existing wells and many believe it is too stringent. A compromise distance of 25-ft was proposed with some level of committee support.
 - c. The 50-ft setback from streams, canals, irrigation ditches was an IDWR proposal and some committee members questioned its applicability to properly sealed wells. IDWR concurred in principal and sought committee input how this concept can be captured in rules.
4. Stakeholders representing well drillers stated that Alternative 2 (line 490 through 492) was their preferred alternative for the minimum casing specifications.
5. Stakeholders questioned how the driller would determine if the well casing extended 18 inches above the 100 year flood plain elevation (Rule 30) and how the Department would enforce the requirement. IDWR suggested that the Department may be able to add flood plain data into the Well Driller Location Tool or IDWR would inform the driller when the Start Card was submitted.
6. Stakeholders questioned Rule 35, Standards for Minimum Well Casing Size. Some pointed out that wells could be installed that produced water through pump chambers smaller than outlined in the table. IDWR stated it would consider options for casing size if IGWA or drillers would submit proposed text.
7. Stakeholders discussed Rule 36, Standards for Plumbness and Alignment. After some discussion, IDWR restated their goal to have properly constructed wells and having a well that is plumb and straight is a good start to a well that is properly constructed. Consideration will be given to modifying or deleting lines 544 through 553 inclusive.
8. Stakeholders representing well drillers outlined numerous objections to Rule 40.
 - a. The rule would apply to all thermoplastic pipes, including HDPE and PVC.
 - b. IDWR and well drillers agreed to obtain input and suggestions of PVC pipe suppliers at the NGWA conference in Las Vegas, NV. Consideration of manufacturer recommendations for installation and support would be sought.
9. The Department discussed the need for a time frame to be established for abandonment of a well that has not been properly maintained and could cause waste or contamination (Rule 80). No solution was agreed upon in the meeting.
10. James D. Rush, Rocky Mountain Environmental, and Mr. John Monks, Northern Environmental Resources, presented information about well seals and commingling of aquifers.

Mr. Chuck Galloway outlined the next steps in the process to revise IDAPA 37.03.09. He stated that two additional meetings are planned to negotiate with stakeholders. In February,

IDWR would present to the committee its proposed revision to IDAPA 37.03.09, which should present no surprises to the committee. The revised rule is scheduled be presented to the Board of Water Resources at the Board's May 2007 meeting. The meeting adjourned at 4:00 PM.

Next meeting and schedule. The Committee is scheduled to meet on January 4, 2007, using the University of Idaho video conferencing facilities.